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Ref. No. 684106.01/015435.00010

April 16, 2012

Edward J. Kowalski, Director  
Office of Compliance and Enforcement  
EPA Region 10  
1200 6<sup>th</sup> Ave., Suite 900, MS OCE-164  
Seattle, WA 98101

**Re:** Rainier Commons, LLC – Old Rainier Brewery Paint Abatement  
Request for Extension and Modification to 40 C.F.R. 761.61(c) Application and  
Approval

Dear Mr. Kowalski:

This request for extension and modification of the Rainier Commons' original 761.61(c) application for risk removal and disposal of PCB containing dried applied paint, and its approval, is made in follow up to the abatement work at the 6<sup>th</sup> floor of building 6 at the Old Rainier Brewery. The report on the abatement work for the 6<sup>th</sup> floor work was submitted by Rainier Commons' environmental consultant, CDM (now CDM Smith), dated December 9, 2011. Lab results for substrate sampling followed. Since that time we have met with EPA in February of this year to go over those results and to plan for additional abatement work. On site meetings with contractors and additional review of means and methods for the two remaining interior spaces have been conducted. The logistics for the tenant occupied spaces remaining are more challenging than the 6<sup>th</sup> floor work, which involved a little used back stairwell. The timing of the work is tenant sensitive. Again, this was not an issue with the 6<sup>th</sup> floor work. The work is being planned to occur with minimum impact to tenant occupancy and use. The work is planned to commence on April 26, 2012.

Enclosed are the contractor proposals for the second and third interior spaces that had dried applied paint containing PCBs at or above the regulated limit for PCB Bulk Product Waste,  $\geq 50$  ppm. Also enclosed is a figure showing the areas being abated. An updated contractor proposal will follow with the square footage take off for the second floor east wall area included within the abatement plan. The sample taken directly adjacent to the south wall, at the top of the stairs, returned a lab result right at 50 ppm; therefore, the entire wall section at the top of the stairway and including the secretarial station to the North and to the divider wall is included in the abatement plan. There are two windows in that area and the contractor did not have an

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accurate take off for the wall area, without the windows, but we did not want to hold this letter as that will affect cost not the overall plan.

The contractors performing the work will be the same group that successfully completed the sixth floor work. Assured Quality Environmental Inc. of Tacoma Washington will perform the blasting work. They will likely use the walnut shells for a blast medium again. Sand will be the likely back-up blast medium. The baking soda did not perform as well as anticipated on the sixth floor and the alternate blast medium worked much better. We would like to continue to allow the contractor flexibility to make field decisions on the blast medium based on performance as this does not change any of the other parameters of the job.

Orion Environmental Services is the industrial hygienist and consulting company that will be in charge of the containment, health and safety, and air and dust monitoring. The Health and Safety Plan that was previously approved by EPA for Rainier Commons and that was implemented during the sixth floor work will continue to apply to this additional interior work.

Emerald Services Inc. will provide the environmental and hazardous waste disposal services. This will include the blast media, paint chips, personal protection gear, the containment materials and all other waste related to the job. They will provide an appropriate container for disposal use on site, sample and characterize the waste and properly dispose of all of the material.

The abatement work, monitoring and clean-up will be carried out in the same or substantially the same manner as the sixth floor work. The results on the brick substrate at the sixth floor were all within the 1 ppm residual for PCB Remediation Waste. The concrete results were also very good, with no indication of a migration issue. There were areas of the concrete substrate sampled that exceeded 1 ppm, but all were well under 50 ppm. A careful visual inspection of the sixth floor revealed a few spots where the paint was more stubbornly adhered to the concrete as opposed to the brick. Very small bits of paint remaining after blasting are attributed to the substrate results on the concrete at the sixth floor area differing from the brick results. To address this issue going forward the contractor is adding a second spot follow up treatment, where needed, as needed, on the two additional interior areas. The contractor will add a careful visual inspection after blasting. If small paint areas remain, then a hand-held concrete grinder will be used, following the blasting, to further mechanically remove the paint.

It is our understanding, based upon the post-abatement results and the extensive substrate sampling performed at the sixth floor area and our follow up meeting with EPA, that we will not be required to conduct this extensive substrate sampling at the two additional interior areas again. The purpose of the extensive grid sampling effort at the sixth floor was to establish the efficacy of the abatement method and to confirm if migration of PCBs was an issue or not. PCBs have not migrated from the paint in the brick or concrete and the abatement was highly effective. The sampling effort at the sixth floor was very costly, time consuming and was carried out on paint with PCBs in the five figure range ppm as opposed to the three figure range ppm which we are dealing with on the two remaining interior areas.

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Carrying out substrate sampling in the two remaining interior areas post abatement would be impracticable due to the length of time needed, the duration of the tenting needed and the disruption to tenants, to say nothing of the cost to the owners. And, again, in light of the sampling results on the sixth floor would not be warranted. Physical removal of the paint by visual verification is the standard we understand will apply here.

It is EPA's position that the paint, which contains PCBs in some places at a level at or above 50 ppm, is in "use" on the building and that under the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.* ("TSCA"), this "use" is unauthorized. EPA does not currently recognize an exception to this use and does not recognize a current rule that would exempt this "use" from the TSCA use prohibition.

By agreeing to this abatement, Rainier Commons is not adopting EPA's positions or interpretation of the TSCA and is not waiving its right to formally disagree or take alternate positions in the future. However, for the sake of expediency and to take action that Rainier Commons deems, at the present time, to be in the best interests of all concerned, it is moving forward with this proposed abatement on a voluntary basis. Accordingly, Rainier Commons has authorized the work to commence pending receipt of EPA's approval of the work plan. Rainier Commons has notified its affected tenants and will continue to be in close contact with those tenants to adjust any planned work or dates as needed.

Rainier Commons reserves all of the legal arguments that it has put forward to EPA in the past and that may be available to it now and that may become available to it in the future. Without waiving any of those positions, we do have mutual agreement that EPA is authorized under C.F.R. 761.61(c) to approve practical procedures for sampling, clean up, disposal and storage where the method will not pose an unreasonable risk of injury to health or the environment. While we have agreed to disagree on various matters, we have also set aside those disagreements, in order to move forward with remediation for the common good.

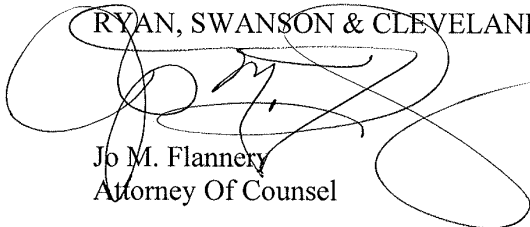
Thus, Rainier Commons is requesting that EPA further exercise its authority under 40 C.F.R. 761.61(c) to amend, modify and extend the prior 761.61(c) approval for risk based clean up and disposal of PCB containing paint, for the two additional interior areas as requested and outlined herein. The Work Summary and Visual Evaluation Results prepared by CDM dated December 9, 2011 and the subsequent substrate sampling results from the sixth floor work, along with the data referenced in our original application provide the basis for the approval for this request to extend and modify the prior approval. Because all of these materials have been provided to EPA we have agreed not to include duplicates of these materials here.

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We look forward to EPA's confirmation to move forward with the work as planned. We apologize for the short timeline in making this formal request.

Very truly yours,

RYAN, SWANSON & CLEVELAND, PLLC



Jo M. Flannery  
Attorney Of Counsel

Enclosures

cc: Richard Mednick  
Rainier Commons, LLC



From the Desk of Nelson Miles, IH

**APRIL 10, 2012**

Vered Mizrahi  
Ariel Development  
918 South Horton Street, Suite 1018  
Seattle, Washington 98134

**RE:** PCB Remediation Monitoring  
Grove Universe and Tully's South Wall

Dear Vered:

Submitted for your consideration is the cost to perform monitoring services during PCB remediation from the subject locations. The schedule below is not to exceed prices. If we see that we are not needed the entire time for that day, then we will not bill for those hours. We will also not bill for any samples we do not collect or analyze.

Task	Estimated Time/Samples	Unit Price	Total
Assured Quality's Work Plan Development and Review	8 hours	NC	NC
<b>Site Visits &amp; Monitoring</b>			
• Field Labor, Monitoring and Report	36 hours	\$80.00/hr	\$2,880.00
• Total Dust Monitoring 2 PCB Sample Analysis	1 Week/2 Samples	\$400.00	\$400.00
All sample costs are based on 5-7 day			
<b>TOTAL</b>			<b>\$3,280.00</b>
<b>Schedule of Charges</b>			
Industrial Hygienist		\$80.00 per hour	
PCB Sample Analysis		\$110.00 each	
Shipping		\$35.00 each	

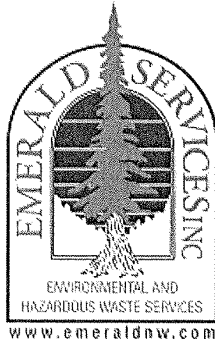
Professionally Yours,

**ORION Environmental Services**

Nelson B. Miles III, Sr. Industrial Hygienist  
Project Manager

34004 9<sup>th</sup> Avenue South A5 ♦ Federal Way, Washington 98003  
Telephone (253) 952-6717 ♦ Facsimile (253) 927-4714 ♦ email nmiles@oriones.net

**RCLLC 0012422**



## Quote

**Date:** March 28, 2012

**Contact:** VERED MIZRAHI PROJECT MANAGER

**Phone:** (206) 447-2821

**Customer:** RAINIER COMMONS LLC

**Fax:** (206) 447-0299

**Address:** 3200 AIRPORT WAY SOUTH

**State/Zip:** SEATTLE, WA 98134

**Submitted By:** ERIC ORWOLL - ACCOUNT EXECUTIVE

**Phone:** (206) 363-9000

Emerald Services Inc. - Environmental and Hazardous  
Waste Services Division

**Fax:** (253) 884-1980

eorwoll@emeraldncw.com

**No.:** 15764

Office Use Only	Description	Quantity	Price	/Per	Extended
	Rainier Commons Trial Run #2 - Estimated quotation for transportation and disposal of PCB contaminated sandblast media, paint chips, PPE & debris. (Price category based on test results and profile acceptance at final disposal facility TSDF). Lab analysis based on normal 10 day turnaround, for rush 48 hours add 50% additional cost.				
	<b>ALTERNATE WASTE</b>				
02034	TSCA Regulated PCB Solids for direct landfill (cubic yard box)		\$265.00	Fiber Contain	
02032	TSCA / RCRA Regulated PCB / Heavy Metal Solids (Stabilization) (cubic yard box)		\$325.00	Fiber Contain	
	<b>FEES</b>				
91322	Delivery Fee for supplies	1.00	\$50.00	Each	\$50.00
91322	Transportation Stop Charge (for waste shipment)	1.00	\$90.00	Each	\$90.00
91103	LAB ANALYSIS - PCB	1.00	\$81.25	Each	\$81.25
91103	LAB ANALYSIS - TCLP RCRA 8 (Heavy Metals)	1.00	\$163.75	Each	\$163.75
91104	PROFILE FEE	1.00	\$100.00	Each	\$100.00
	<b>INDUSTRIAL LABOR</b>				
33001	Field Chemist (sampling & forklift operation for shipment)	4.00	\$72.00	Hour	\$288.00

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57011	<b>SERVICE &amp; RENTALS</b> Forklift Rental (load shipment)	1.00	\$413.00	Day	\$413.00
TRIWALL BOX-1	<b>SUPPLIES</b> DOT Spec Triwall Cubic Yard Box, Liner and Pallet	2.00	\$145.00	Fiber Contain	\$290.00
SUR-Q-4	<b>MISC.</b> Fuel and Energy Surcharge 13.75% of invoice total			Each	

*Price subject to change upon review of W.P.Q. (profile) and/or representative sample. Pricing is effective for ninety (90) days and is contingent upon profile approval, review of representative sample(s) and all available analytical information regarding the material which includes any malodorous material or waste stream. Emerald Services Inc.'s direct or final disposal facility reserves the right to reject non-conforming materials. Customer agrees, upon notification of receipt of non-conforming materials, to resolve the non-conforming shipment within 48 hours and at its sole expense, or non-conforming shipment will be resolved at the discretion of Emerald Services Inc.'s direct or final disposal facility at the customer's sole expense.*

\_\_\_\_\_  
**Customer Acknowledgement**

\_\_\_\_\_  
**Date**

# ASSURED QUALITY

ENVIRONMENTAL INC.

2702 "A" St. • Tacoma, WA 98402

General Contractors Specializing in Asbestos/Lead  
Removal, Interior Demolition and Mold Remediation

Tacoma (253) 572-7175

Seattle (206) 763-7177

Port Orchard (360) 769-7175

Fax (253) 779-4020

December 4<sup>th</sup> 2011

Lior Abada  
Engineer  
Old Rainier Brewery Complex  
3200 Airport Way South  
Seattle WA 98134

Re: PCB Abatement Quotation  
Old Rainier Brewery Complex  
3200 Airport Way South Bldg 7 Rm. 212 & Bldg 24 stairwell.  
Seattle WA 98134

Mr. Abada:

Assured Quality Environmental appreciates this opportunity to provide you with this proposal for PCB Abatement services. We look forward to working with you, and hope that our proposal meets your requirements.

We propose to remove the PCB based paint from the facility located at the address listed above for the sum of:

**TWELVE THOUSAND FIVE HUNDRED NINETY FIVE DOLLARS (12,595.00)**  
**+ SALES TAX.**

## **SCOPE OF WORK:**

- 1) Remove PCB'S in two separate areas and prep structure for painting.

## **CONDITIONS**

- 1) Price includes **Liability Insurance** for Two Million (\$2,000,000) Dollars.
- 2) Price excludes **Disposal**.
- 3) Price includes weekend work.
- 4) Price is based on moving all equipment from one area to a separate area for work.
- 5) All work will be strictly performed per **EPA, WISHA & OSHA** Standards.
- 6) Price is based on **Power and Water** being provided by the **Owner**.
- 7) Price is based on all items removed from the area of abatement prior to our Mobilization.

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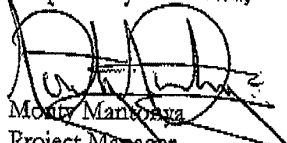
- 8) TERMS: PAYMENT IN FULL UPON COMPLETION OF WORK; 1.5%  
Interest charge due on unpaid balance.

EXCLUSIONS

1. Price does not include Sales Tax.
2. Price is based on one mobilization.
3. AQE can not be held responsible for staple holes and tape residue during the construction of our containment.
4. Price does not include the replacement of any items removed.

Thank you for giving us the opportunity to bid this project for you. If you have any questions regarding this bid, please contact us at (253) 572-7175, or on my cell phone @ 253-377-7890.

Respectfully submitted,

  
Monty Mantonya  
Project Manager

Acceptance of Proposal

By: \_\_\_\_\_

Date: \_\_\_\_\_

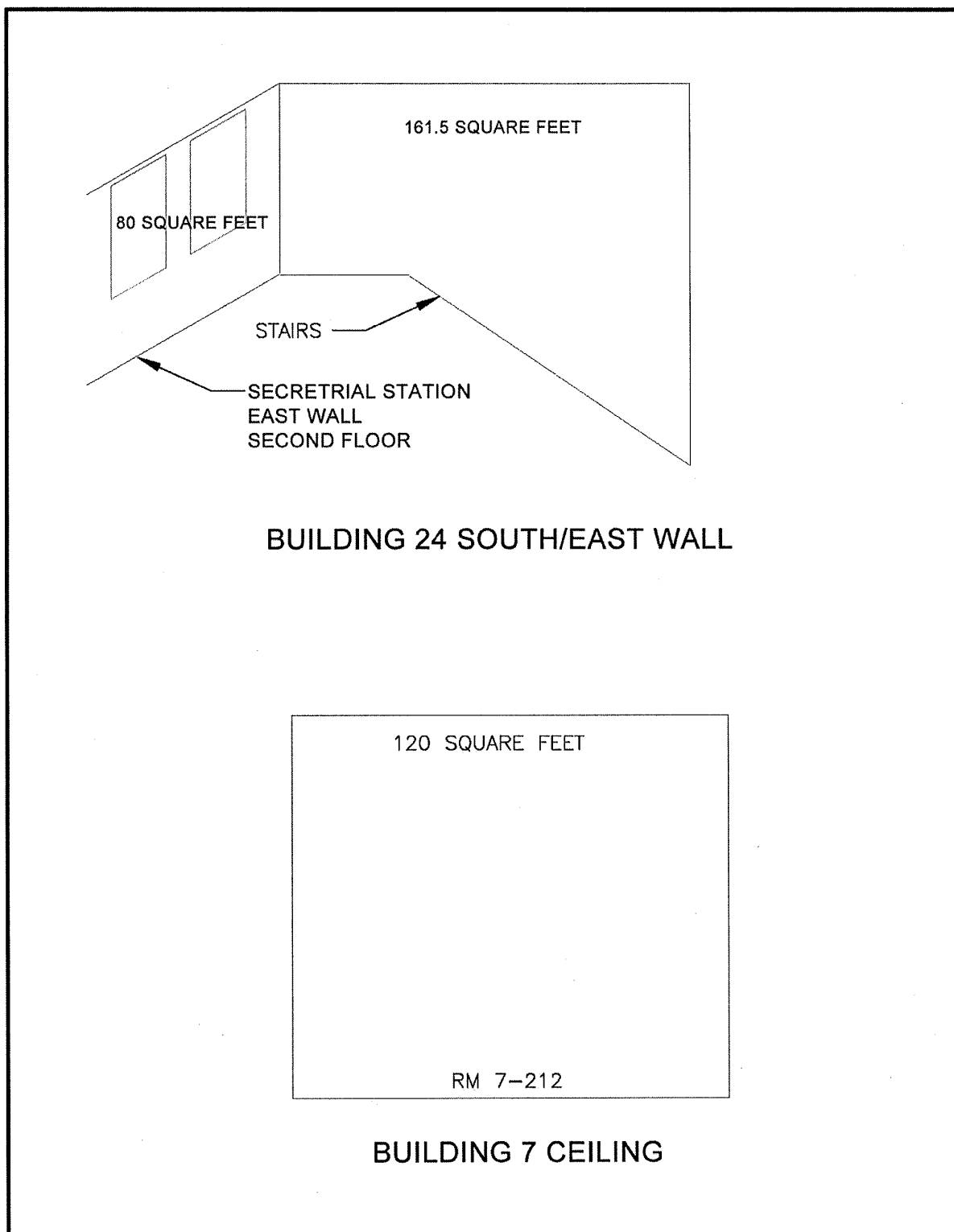


FIGURE 1  
RAINIER COMMONS LLC  
PCB INTERIOR ABATENMENT PROJECT  
APRIL, 2012